

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALBERTO FELIX CANO, SALOMON CATALAN,
GERMAN GALVEZ, VICTORIA FELIX,
ANGELINA GALVEZ, MODESTO VENTURA,
MARCELINO RODRIGUEZ, SERGIO ESTRADA
GUADALUPE GALVEZ, and FIDEL VENTURA,

Plaintiffs,

Case No. 1:06-cv-621

v.

Hon. Wendell A. Miles

GEORGE S. HORKEY, JR., an individual
and d/b/a HORKEY BROTHERS FARMS,
and CARL M. HORKEY, an individual
and d/b/a HORKEY BROTHERS FARMS,

Defendants.

ORDER ON PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT

Plaintiffs, who allege that they were migrant farm workers employed by the defendants, filed this action asserting claims under the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), 29 U.S.C. § 1801 et seq., and the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* The matter is currently before the court on a motion by plaintiffs for default judgment (docket no. 5). The defendants, who have filed a written brief opposing the motion, filed their answer to the complaint on February 5, 2007, three days after plaintiffs filed their motion.

In their response to the motion, defendants argue that service was insufficient. In addition, they also argue – without benefit of supporting affidavit – that plaintiffs were aware that the defendants were preparing to file an answer, and plaintiffs agreed not to seek a default

judgment in the meantime. Whether or not this is true, however, plaintiffs' motion is defective because it is not supported by affidavit as required by Fed.R.Civ.P. 55(a), nor is it accompanied by a supporting brief as required by W.D. Mich.L.Civ.R. 7.1(a). Plaintiffs' motion must therefore be DENIED.

IT IS SO ORDERED this 20th day of March, 2007.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge